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K&L Gates LLP P.O. Box 1135 Chicago, IL 60690-1135			EXAMINER SOREY, ROBERT A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/748,749	Applicant(s) MIHAI ET AL.	
	Examiner ROBERT SOREY	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28,31 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/30/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. In the amendment filed 10/15/2009, the following occurred: Claims 1, 2, and 14 were amended. Claims 1-28, 31, and 32 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 7, 8, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,822,544 to Chaco.

4. As per claim 1, Chaco teaches a system comprising:

--a terminal device attached to a first network and comprising a visual display
(Fig. 4, is met by nurse station 300 or 2310 connected to network server 430 via the network; Fig. 14, is met by nurse station connected to the network server via the network; Fig. 32, is met by nurse station 2414 comprising a visual display)(see: Chaco, column 19, lines 50-58, met by network N2 connecting nurse station to the server)

--a plurality of medical devices attached to the first network (Fig. 4, is met by patient station 210 or external device 428 and its microcontroller 426 connected to network server 430 via the network; Fig. 14, is met by patient station connected to the network server via the network; Fig. 32, is met by patient station 2416 - including

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elements 3280, 3284 (IV pump), 3234, and 3232)(see: Chaco, column 19, lines 50-58, met by network N2 connecting patient station to the server);

--a communication initiated by one of the plurality of medical devices and transmitted over the first network, the communication comprising at least one of status information or programming information for said one of the plurality of medical devices (Fig. 32, is met by bedside equipment - including elements 3280, 3284 (IV pump), 3234, and 3232 – and peripheral equipment – includes elements in 3220 and 3254 - generating communication status and equipment operation data over the network depicted in Fig. 4 and Fig. 14)(see: Chaco, column 42, lines 2-5, is met by bedside equipment serially transmit data; and column 47, lines 7-25, is met by communicating status and equipment operation data over the network);

--a first server attached to the first network, the first server storing validated data (Fig. 4, is met by server connected to network; Fig. 14, is met by server connected to network; Fig. 32, is met by server connected to network)(see: Chaco, column 15, lines 21-31, is met by information stored at server; column 19, lines 50-58, met by network N2 connected to the server; and column 28, lines 4-7, is met by authorized list data that is stored locally at server 430);

--a hub connected to the plurality of medical devices and the first server, the plurality of medical devices in communication with the first server and isolated from the second server via the hub (Fig. 4, is met by nurse station 300 or 2310 connected to network server 430 via the network; Fig. 14, is met by nurse station connected to the network server via the network; Fig. 32, is met by nurse station 2414 comprising a

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visual display)(see: Chaco, column 10, line 61 through column 11, line 8, is met by transceivers used in hierarchical networking; column 12, lines 24-51, is met by transceivers 424 receiving and transmitting data between the multiple medical devices (nurse and patient stations) and the server 430; and column 20, lines 5-34, is met by transceivers 1418, 1422, and 1428, and microcontroller 1512, transmit data from nurse stations or external monitoring devices to the server);

--a second server in communication with the first server via a second network, the second server storing non-validated data, wherein the plurality of medical devices and the terminal device communicate with the first server, and wherein the second server is separated from the plurality of medical devices and the terminal device via the hub, the second network, the first server, and the first network (Fig. 4, is met by patient station 210, external device 428, and nurse station 2310 or 300, connected to network server 430, which acts as the gateway to the central computing system 432; and Fig. 14, is met by patient station, nurse station, and external device transceivers connected to network server 430 over network N2, the server separately connected to the central computing system 432)(see: Chaco, column 12, lines 37-47, is met by patient station and nurse station linked to server (by cable or transceivers), the server linked to the central computing system; column 20, lines 5-47, is met by explicit recitation that transceivers (1418 for example) communicate nurse stations and external monitoring devices to the central computer via network server 430; column 21, lines 33-42, is met by messages being sent to transceivers to and from the central computer via the network server; column 23, lines 1-2, is met by identification and interview data stored

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directly in central computer 432; column 27, lines 62-65, is met by identification number stored in computer 432; and column 28, lines 4-11, is met by an authorized list that is stored at central computer 432, and attempted access is recorded on central computer 432; column 28, lines 40-47, is met by medication dosages are recorded in the central computer; and column 47, lines 7-25, is met by equipment status and operational data sent to central computer 432);

--a message generated by the first server and transmitted over the first network upon at least one of a request by the terminal device or an occurrence of an event, said message comprising at least a portion of the status or the programming information contained within the communication initiated by one of the plurality of medical devices, wherein at least a portion of said message is provided in a humanly readable format on the visual display (see: Chaco, column 14, lines 11-26, is met by data from external devices being transferred to the nurse station via the network server; column 36, lines 29-33, is met by a problem report that is displayed at the nurse station; column 43, line 18 through column 44, line 6, is met by bedside equipment (includes IV pump) status or message information being sent to nurse station, via the network server, and added to its problem report); *and*

--a message generated by the second server, the message generated at least in part upon one of: (i) a request from the first server; or (ii) automatically, the message transmitted over the second network to the first server and over the first network to at least the terminal device (Fig. 4, is met by patient station 210, external device 428, and nurse station 2310 or 300, connected to network server 430, which acts as the gateway

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to the central computing system 432; and Fig. 14, is met by patient station, nurse station, and external device transceivers connected to network server 430 over network N2, the server separately connected to the central computing system 432)(see: Chaco, column 10, lines 54-60, is met by generated messages at the central computer to a patient station or central nurse station; column 19, lines 59-67, is met by commands from central computer transmitted via network server to nurse stations; column 20, lines 48-55, is met by command message received from central computer by network transceiver to send to connected external devices and nurse stations; column 21, lines 22-26, is met by central computer transmit command messages; column 24, lines 5-9, is met by central computer displays message; and column 47, lines 7-25, is met by central computer sends location data of bedside equipment over the network).

5. As per claim 7, Chaco teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the network is located within a health care facility (see: Chaco, column 4, lines 5-19, is met by care provided within a health care facility; see also mentions of health care facility and hospital throughout reference).

6. As per claim 8, Chaco teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the medical device is an infusion pump (see: Chaco, column 42, lines 2-5, is met by IV pump; column 46, line 59 through column 47, line 25, is met by intravenous IV pump).

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7. As per claim 13, Chaco teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the terminal device is associated with a clinician responsible for care of a patient (see: Chaco, column 26, lines 42-52, is met by identification of patient and his or her attending physician; column 37, lines 12-13, is met by data identifying the physician; and is also met by the attending nurse taught throughout the reference) and the medical device is attached to the patient (see: Chaco, column 42, lines 2-5, is met by IV pump; column 46, line 59 through column 47, line 25, is met by intravenous IV pump).

8. **Claims 2-6, 9-12, and 14-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,822,544 to Chaco in view of U.S. Patent 6,980,958 to Surwit et al. further in view of U.S. Patent Application Publication 2002/0038392 to De La Hueraga.

9. As per claim 2, Chaco teaches the invention substantially as claimed, see discussion of claim 1, but fails to specifically teach:

--a request message generated by a software application executed by the terminal device;

--a response message generated from the first sever in response to the request message and comprising first information contained within a data packet generated by the medical device,

However, Surwit et al. teaches remote patient monitors and physician access terminals connected to a server through a network wherein patient status information is sent from the patient monitor to the sever and from the server to the physician's terminal

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upon request (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; columns 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9).

Furthermore, neither reference specifically teaches the limitation:

--and wherein said information is modified in response to a change in the information contained within another data packet generated by the medical device.

However, De La Huerga teaches a pump receiving a query, comparing request to the stored patient ID, determining if there is a match, upon match accesses requested information such as pump status, formulating a response including required information and separate system addresses associated with the patient and sends the response (see: De La Huerga, paragraph 202). Additionally, De La Huerga teaches causing additional medicant information related to a selected medicant to be provided by querying the medicant pumps to (see: De La Huerga, paragraph 207). Also, De La Huerga teaches formulating messages and providing conditions and changes in settings, such as a message indicating that a medicant is to be added to a patient's regimen (see: De La Huerga, paragraph 220). Many citation from De La Huerga teach this limitation (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 44, 155, 208, 211-215, 220, 221, 223, 224, 243, 259, 260, 271, 285, 286, 290, 319, and 320).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chaco, Surwit et al., and De La Huerga. The well known elements described are merely a combination of old elements,

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and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

10. As per claim 3, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the program is written in a high-level software language (see: Surwit et al., column 7, lines 46-54).

11. As per claim 4, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the program is written in an object-oriented language (see: Surwit et al., column 7, lines 46-54).

12. As per claim 5, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the software application is a Web browser (Fig. 1; and Fig. 8-Fig. 14)(see: Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet browsers").

13. As per claim 6, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the software application resides on the first server and its output is displayed in a browser (see: Surwit et al., column 7, line 55 through column 8, line 19; and column 11, lines 6-57).

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14. As per claim 9, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said information comprising an alarm, alert, or other notification (see: Chaco, column 16, lines 29-33, is met by alarm and error message; column 46, line 59 through column 47, line 6, is met by alarm).

15. As per claim 10, Chaco teaches the invention substantially as claimed, see discussion of claim 9, but fails to specifically teach:

--said change in the information comprising cancellation of an alarm, alert, or other notification (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, 320, and 323, is met, for example, by "audible alert requesting the physician to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing a button").

16. As per claim 11, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said information comprising pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

17. As per claim 12, Chaco teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said medical device is an infusion pump (see: Chaco, column 42, lines 2-5, is met by IV pump; column 46, line 59 through column 47, line 25, is met by intravenous IV pump) and said change in the information comprising a change in the pump

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programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

18. As per claim 14, Surwit et al. teaches a system comprising:

--a terminal device attached to a first network (Fig. 4, is met by nurse station 300 or 2310 connected to network server 430 via the network; Fig. 14, is met by nurse station connected to the network server via the network; Fig. 32, is met by nurse station 2414 comprising a visual display)(see: Chaco, column 19, lines 50-58, met by network N2 connecting nurse station to the server);

--a plurality of medical devices attached to the first network (Fig. 4, is met by patient station 210 or external device 428 and its microcontroller 426 connected to network server 430 via the network; Fig. 14, is met by patient station connected to the network server via the network; Fig. 32, is met by patient station 2416 - including elements 3280, 3284 (IV pump), 3234, and 3232)(see: Chaco, column 19, lines 50-58, met by network N2 connecting patient station to the server);

--a hub connected to the plurality of medical devices and the first central computer, the plurality of medical devices in communication with the first central computer via the hub (Fig. 4, is met by nurse station 300 or 2310 connected to network server 430 via the network; Fig. 14, is met by nurse station connected to the network server via the network; Fig. 32, is met by nurse station 2414 comprising a visual display)(see: Chaco, column 10, line 61 through column 11, line 8, is met by transceivers used in hierarchical networking; column 12, lines 24-51, is met by transceivers 424 receiving and transmitting data between the multiple medical devices

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(nurse and patient stations) and the server 430; and column 20, lines 5-34, is met by transceivers 1418, 1422, and 1428, and microcontroller 1512, transmit data from nurse stations or external monitoring devices to the server);

--a request message generated by a program within a software application executed by the terminal device (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; columns 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9, is met by remote patient monitors and physician access terminals connected to a server through a network wherein patient monitors receive messages for feedback),

--a response message sent from the first central computer in response to the request message and comprising information contained within a data packet generated by one of the plurality of medical devices (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; columns 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9, is met by patient status information is sent from the patient monitor to the sever and from the server to the physician's terminal upon request),

Surwit et al. fails to specifically teach the limitation:

--wherein said information is modified in response to a change in the information contained within another data packet generated by one of the plurality of medical devices,

However, De La Huerga teaches a pump receiving a query, comparing request to the stored patient ID, determining if there is a match, upon match accesses requested

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information such as pump status, formulating a response including required information and separate system addresses associated with the patient and sends the response (see: De La Huerga, paragraph 202). Additionally, De La Huerga teaches causing additional medicant information related to a selected medicant to be provided by querying the medicant pumps to (see: De La Huerga, paragraph 207). Also, De La Huerga teaches formulating messages and providing conditions and changes in settings, such as a message indicating that a medicant is to be added to a patient's regimen (see: De La Huerga, paragraph 220). Many citation from De La Huerga teach this limitation (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 44, 155, 208, 211-215, 220, 221, 223, 224, 243, 259, 260, 271, 285, 286, 290, 319, and 320).

As per the remaining limitations, Chaco teaches that the medical device is *attached to the first network* (Fig. 4, is met by patient station 210 or external device 428 and its microcontroller 426 connected to network server 430 via the network; Fig. 14, is met by patient station connected to the network server via the network; Fig. 32, is met by patient station 2416)(see: Chaco, column 19, lines 50-58, met by network N2 connecting patient station to the server) and *the request message sent to the first central computer via the first network* (Fig. 32, is met by bedside equipment - including elements 3280, 3284 (IV pump), 3234, and 3232 – and peripheral equipment – includes elements in 3220 and 3254 - generating communication status and equipment operation data over the network depicted in Fig. 4 and Fig. 14)(see: Chaco, column 42, lines 2-5,

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is met by bedside equipment serially transmit data; and column 47, lines 7-25, is met by communicating status and equipment operation data over the network);

--wherein a second central computer communicates with the first central computer via a second network, the second central computer separated from the plurality of medical devices and the terminal device via the hub, the second network, the first central computer, and the first network, and wherein the first central computer stores validated data (Fig. 4, is met by server connected to network; Fig. 14, is met by server connected to network; Fig. 32, is met by server connected to network)(see: Chaco, column 15, lines 21-31, is met by information stored at server; column 19, lines 50-58, met by network N2 connected to the server; and column 28, lines 4-7, is met by authorized list data that is stored locally at server 430) and the second central computer stores non-validated data (Fig. 4, is met by patient station 210, external device 428, and nurse station 2310 or 300, connected to network server 430, which acts as the gateway to the central computing system 432; and Fig. 14, is met by patient station, nurse station, and external device transceivers connected to network server 430 over network N2, the server separately connected to the central computing system 432)(see: Chaco, column 12, lines 37-47, is met by patient station and nurse station linked to server (by cable or transceivers), the server linked to the central computing system; column 20, lines 5-47, is met by explicit recitation that transceivers (1418 for example) communicate nurse stations and external monitoring devices to the central computer via network server 430; column 21, lines 33-42, is met by messages being sent to transceivers to and from the central computer via the network server; column 23, lines

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1-2, is met by identification and interview data stored directly in central computer 432; column 27, lines 62-65, is met by identification number stored in computer 432; and column 28, lines 4-11, is met by an authorized list that is stored at central computer 432, and attempted access is recorded on central computer 432; column 28, lines 40-47, is met by medication dosages are recorded in the central computer; and column 47, lines 7-25, is met by equipment status and operational data sent to central computer 432); and

--a response message sent from the first central computer contained within a data packet generated by the second central computer, the response message generated at least in part upon a request from the second central computer, the response message is sent over the first network to at least the terminal device (Fig. 4, is met by patient station 210, external device 428, and nurse station 2310 or 300, connected to network server 430, which acts as the gateway to the central computing system 432; and Fig. 14, is met by patient station, nurse station, and external device transceivers connected to network server 430 over network N2, the server separately connected to the central computing system 432)(see: Chaco, column 10, lines 54-60, is met by generated messages at the central computer to a patient station or central nurse station; column 19, lines 59-67, is met by commands from central computer transmitted via network server to nurse stations; column 20, lines 48-55, is met by command message received from central computer by network transceiver to send to connected external devices and nurse stations; column 21, lines 22-26, is met by central computer transmit command messages; column 24, lines 5-9, is met by central computer displays

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message; and column 47, lines 7-25, is met by central computer sends location data of bedside equipment over the network).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chaco, Surwit et al., and De La Hueraga. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. As per claim 15, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in a high-level software language (see: Surwit et al., column 7, lines 46-54).

20. As per claim 16, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written is an object-oriented language (see: Surwit et al., column 7, lines 46-54).

21. As per claim 17, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in JAVA (see: Surwit et al., column 7, lines 46-54).

22. As per claim 18, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in C+ (see: Surwit et al., column 7, lines 46-54).

23. As per claim 19, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in Visual Basic Script (see: Surwit et al., column 7, lines 46-54).

24. As per claim 20, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the software application is a Web browser (Fig. 1; and Fig. 8-Fig. 14)(see: Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet browsers").

25. As per claim 21, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the software application resides on a server and its output is displayed in a browser (see: Surwit et al., column 7, line 55 through column 8, line 19; and column 11, lines 6-57).

26. As per claim 22, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the terminal device is attached to a network within a health care facility (see: Chaco, column 4, lines 5-19, is met by care provided within a health care facility; see also mentions of health care facility and hospital throughout reference).

27. As per claim 23, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the medical device is an infusion pump (see: Chaco, column 42, lines 2-5, is met by IV pump; column 46, line 59 through column 47, line 25, is met by intravenous IV pump).

28. As per claim 24, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 23, and further teaches:

--said information comprising an alarm or an alert (see: Chaco, column 16, lines 29-33, is met by alarm and error message; column 46, line 59 through column 47, line 6, is met by alarm).

29. As per claim 25, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 24, and further teaches:

--said change in the information comprising cancellation of an alarm or an alert (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, 320, and 323, is met, for example, by "audible alert requesting the physician to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing a button").

30. As per claim 26, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 23, and further teaches:

--said information comprising pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

31. As per claim 27, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 26, and further teaches:

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--said change in the information comprising a change in the pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

32. As per claim 28, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--the terminal device is associated with a clinician responsible for care of a patient and the medical device is attached to the patient (see: Chaco, column 26, lines 42-52, is met by identification of patient and his or her attending physician; column 37, lines 12-13, is met by data identifying the physician; and is also met by the attending nurse taught throughout the reference) *and the medical device is attached to the patient* (see: Chaco, column 42, lines 2-5, is met by IV pump; column 46, line 59 through column 47, line 25, is met by intravenous IV pump).

33. **Claim 31** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,822,544 to Chaco in view of U.S. Patent 6,980,958 to Surwit et al. further in view of U.S. Patent Application Publication 20040/0004965 to Chen.

34. As per claim 31, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 1, but fails to specifically teach:

--wherein the second network is [a] cable communication Ethernet network.

However, Surwit et al. teaches an Ethernet network (see: Surwit et al., column 12, lines 19-23) and Chen teaches an Ethernet network that is *an isolated point-to-point* Ethernet network or PPOE (see: Chen, paragraph 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chaco, Chen, and Surwit et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

35. **Claim 32** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,822,544 to Chaco in view of U.S. Patent 6,980,958 to Surwit et al. in view of U.S. Patent Application Publication 2002/0038392 to De La Huerga further in view of U.S. Patent Application Publication 2004/0004965 to Chen.

36. As per claim 32, Surwit et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the second network is [a] cable communication Ethernet network (see: Surwit et al., column 12, lines 19-23, is met by the Ethernet network).

The cited references fail to specifically teach that the Ethernet network is *an isolated point-to-point* Ethernet network; however, Chen teaches an Ethernet network that is an isolated point-to-point Ethernet network or PPOE (see: Chen, paragraph 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chaco, Chen, Surwit et al., and De La Huerga. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function

as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Response to Arguments

37. Applicant's arguments from the response filed on 10/15/2009 have been fully considered and will be addressed below in the order in which they appeared.

38. In the remarks, Applicant argues in substance that (1) the 35 U.S.C. 112, second paragraph, rejections should be withdrawn due to corrective amendments and sufficient explanation.

The rejections are withdrawn.

Regarding Applicant's point (2) concerning the rejection concerning the limitations including the phrase "programming information", it is understood that said phrase "refers to information used for programming the medical device or information which has been programmed into the medical device. For example, the system of claim 1 is configured to allow a healthcare facility to define infusion ' parameter limits for an infusion pump. If a clinician attempts to exceed the infusion parameter limits, the system generates a message that the clinician is exceeding the defined limit. The clinician can use this information to program the infusion pump. See, for example, paragraph [0192]. Alternatively, the system may generate a message pertaining to information already programmed into the medical device. For example, the system can provide information regarding programmed infusion pump settings and compare the programmed infusion pump settings with pharmacy orders, or infusion orders. See, Applicants' pre-grant publication, paragraphs [0103]; [0181]; [0387]. With respect to the distinction between

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status information and programming information, as discussed above, programming information relates to information already programmed into the medical device or information to be programmed into the medical device, such as an infusion pump. Status information, on the other hand, can relate to, for example, providing real-time status information of a particular infusion, such as milliliters per hour or the like, duration of the infusion, volume infused, time remaining, and volume yet to be infused. See, for example, Applicants' pre-grant publication, paragraph [0189].

Regarding Applicant's point (5), Applicant explains that they "have amended claim 2 to recite, "a response message generated from the first server." Applicants respectfully submit that claim 2 as presently presented thus does not recite that the medical device modifies the information. Instead, claim 2 as presently presented specifies that a response message is sent from the first central computer in response to the request message. Thus, it is the first central computer that is modifying the information sent from the medical device, not the medical device that is modifying the information sent from the medical device".

39. In the remarks, Applicant argues in substance that (2) the 35 U.S.C. 103(a) rejections should be withdrawn in view of amendments and explanatory arguments.

The Examiner respectfully disagrees. Applicant's arguments are not persuasive.

Specifically, Applicant argues that "Applicants submit that even if the patient stations are interpreted as the plurality of medical devices and the network server is taken as the first server, Applicants can find no disclosure or suggestion that the system of Chaco includes a second server at all, let alone a separate hub connecting a plurality

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of patient stations to the first server and isolating the medical devices from the second server. Independent claim 1, in contrast, includes a plurality of medical devices, a first server, a second server, and a hub that allows the medical devices to communicate with the first server and also isolates the medical devices from the second serve. Such isolation allows for the second server to store the non-validated data". Applicant's additional arguments similarly rely on this type of argument.

The rejection above is explicit. Chaco, Fig. 14, shows a plurality of patient stations connected though a network (the network hub is met by the network transceivers and associated elements) to a first server which is subsequently connected to a central computer (or second server – because a server is any combination of hardware or software designed to provide services to clients and typically refers to a computer). The patient stations include IV pumps and other equipment and external devices. Therefore Chaco teaches an isolated central computer (or second server) and Applicant's configuration is met by the prior art as cited above.

In response to Applicant's argument concerning what such "isolation allows for", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant's claims and arguments touch on elements of design choice. The MPEP, chapter 2144.04, part C. Rearrangement of Parts, teaches that it would be obvious to rearrange known system elements like servers in any number of ways (in the

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present case, isolating a second server (or computer)), and such rearrangement is found to be a matter of obvious design choice. Furthermore, the rearrangement of parts does not result in any new or unexpected results. Additionally, though the arrangement of system elements is a matter of obvious design choice, it is met by the prior art Chaco as cited above.

Finally, it is noted that U.S. Patent Application Publication 2002/0099283 to Christ, cited on the 11/30/2009 IDS submitted by Applicant, also appears to meet Applicant's design choice by using a gateway server system. Another example, U.S. Patent 6,081,786 to Barry, clearly shows in Fig. 3 a plurality of client computers (desktop computers meet Applicant's broadly claimed "medical devices" as medical staff use computers for a plethora of functions) connected to local server computer with associated database and then to a central server computer with an associated database.

Conclusion

40. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571) 270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

42. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

43. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./

Examiner, Art Unit 3626

02/03/2010

/Robert Morgan/

Primary Examiner, Art Unit 3626